

# Shrewsbury Public Schools

Office of Special Education

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## **Special Education Regulatory Overview Report to the Shrewsbury School Committee October 26, 2011**

### **Introduction**

Shrewsbury is committed to providing a Free Appropriate Public Education by offering comprehensive programs for students with disabilities. The school system subscribes to the philosophy that all students can learn and that the purpose of special education is to minimize the impact of disability and maximize the students' ability to achieve success in the least restrictive environment with the greatest access to the general curriculum.

A usable definition for the role of special education comes from Dr. Thomas Hehir in his book, New Directions in Special Education:

“...to minimize the impact of disability and maximize the opportunities for children with disabilities to participate in general education in their natural community...with special education serving as a vehicle for access and addressing the specific needs that arise out of children's disabilities.”(p.49)

The purpose of this report is to provide an overview of the regulatory obligations of Shrewsbury Public Schools. This is the first part in a series of special education reports that will be presented throughout the year. In the past, one report has been presented regarding special education and the services provided across the district. Due to the size of the district and the limited time to focus on the variety of services and programs in the district, we thought it was important to present the information more cohesively throughout the year.

We plan to present the following topics over the course of the year:

1. Overview of Special Education, Laws, “FAPE”, Partnerships, etc
2. Clinical Services
3. Related Services: Speech and Language, Occupational Therapy, Physical Therapy
4. Intensive Special Education Services
5. Special Education Instruction/Inclusion
6. Psychological Services
7. School Services
8. Health Services

## Authority, Scope and Purpose of Special Education laws

### History:

Federal	State
<p>PL (Public Law) 105-17</p> <p>1997 amendments to the Individuals with Disabilities Education Act (IDEA)</p> <p>IDEA grew out of earlier education statutes and amendments</p> <p>1975, P.L. 94-142 FAPE</p>	<p>First major special education law was Chapter 766 of the Acts of 1972 - MGL c.71B</p> <p>Regulation 603 CMR 28.00</p>

### Purpose:

Federal – IDEA 97 reauthorized in 2004	State - MGL (Mass General Law) Chapter 71B
<p>Congress noted that disability is a normal part of the human experience. Congress affirmed the need for higher expectations of student performance, preparation of students for employment and independent living, more comprehensive coordination of supports with other agencies, high quality professional development incentives for whole-school approaches, and pre-referral interventions.</p> <p>With the reauthorization of IDEA-97, the IEP process became unmistakably centered on these three key points:</p> <ol style="list-style-type: none"> <li>1. The involvement and progress of each child with a disability in the general curriculum including the addressing of the student's unique needs that are tied to the disability.</li> <li>2. The involvement of parents, students, special educators and general educators in meeting the individualized educational needs of students with disabilities.</li> <li>3. The critical need to prepare students with disabilities for independence and employment and other post-school activities.</li> </ol> <p>IDEA Part C – Early Intervention administered by the Department of Public Health</p>	<p>Requires that districts identify, evaluate, determine services and provide programs for school age children who – because of their disabilities – are unable to progress effectively in regular education and require special education to develop their individual education plan.</p> <p>Provide a planning process (often referred to as “Chapter 688”) for certain severely disabled young adults to determine adult service needs.</p> <p>The Massachusetts Education Reform Act of 1993 also set high standards for all students including students with disabilities. Education reform reinforces the need to assist all children to reach their full potentials and to lead lives as participants and contributors to the Commonwealth.</p>

## Eligibility

Students are eligible for special education services between the ages of three through twenty-one, who have not attained a high school diploma or its equivalent, who have been determined by a Team to have a disability(ies), and as a consequence are unable to progress effectively in the general education program without specially designed instruction or are unable to access the general curriculum without a related service.

An eligible student shall have the right to receive special education and any related services that are necessary for the student to benefit from special education or that are necessary for the student to access the general curriculum.

In determining eligibility, the school district must thoroughly evaluate and provide a narrative description of the student's educational and developmental potential.

Students who are found eligible for special education must fall into one or more of the following categories:

Autism	Neurological
Communication	Multiple Disabilities
Developmental Delay (3-9 yrs)	Physical
Emotional	Sensory/Hearing
Health Impairment	Sensory/Visual
Intellectual (10 yrs. and above)	Specific Learning Disability

## Process for Determining Eligibility

**Child Find:** Child Find is a continuous process of public awareness activities, screening and evaluation designed to locate, identify, and refer as early as possible all young children with disabilities and their families who are in need of Early Intervention Program (Part C) or Preschool Special Education (Part B/619) services of the Individuals with Disabilities Education Act (IDEA)

**Pre-referral:** Shrewsbury Pubic Schools endorses RTI (Response to Intervention), which ensures instructional support practices and accommodations are available for all children. Interventions and accommodations are documented.

**Initial Referral:** Any concerned person with knowledge of the child can refer for an evaluation. The district must send written notice to the parents within 5 days of receiving the referral. The notice must seek consent to evaluate and invite parental concerns and information.

**Initial Evaluation:** The evaluation must be sufficiently comprehensive to identify all the child's special education and related services needs. No single procedure may be used to determine eligibility. The evaluation must be completed within 30-days from consent of parent.

It is important to note that a student is protected under IDEA during the evaluation period until there is a determination of eligibility.

Assessments are required regarding:

1. The suspected disability
2. Educational status and progress in the general curriculum
3. Results of district wide and state tests
4. How the disability impacts educational progress

Specific assessments are required for:

1. Specific Learning Disabilities
2. Braille for visual impairments
3. Consideration for limited English proficiency
4. Consideration for deaf or hearing impairments
5. Considerations for behavioral impediments
6. Young children upon turning 2.5 years of age

**Team Meeting:** Upon completion of the evaluation, the Team must convene within 45 days of the consent to evaluate to review and consider the evaluation. The Team must include the following: a representative that has the authority to commit resources, parents (and student when appropriate), at least one special educator, at least one regular educator, and other parties/evaluators that have knowledge of the student.

**Determining eligibility:** When making an eligibility determination, Teams must remember that the final question to ask is: Does the student require special education in order to make progress? Special education is defined as specially designed instruction to meet the unique needs of the student or related services that are necessary to access the general curriculum. Specially designed instruction means that there is a need to adapt the content, methodology, delivery of instruction and/or performance criteria in order for a student to make effective progress.

Related services help children with disabilities benefit from their special education by providing extra help and support in needed areas, such as speaking or moving. Within Massachusetts, related services necessary to access the general curriculum are considered special education and may be provided alone or in combination with specially designed instruction.

If the student only requires accommodations, then that student is not eligible for special education. Accommodations are adaptations to presentation or setting that can typically and easily occur in general education (such as preferential seating, wearing eyeglasses, giving extra time on tests).

When considering if the student has made effective progress, the Team must specifically look at whether the disability(ies) is causal to an inability to make progress. Such a finding is pivotal in the eligibility determination. The law clearly states that students may not be determined eligible solely because of a need for reading or math instruction or because of limited English proficiency or social maladjustment.

**Possible outcomes:**

<b>Found Eligible</b>	<b>Not found eligible</b>
An Individual Education Program is developed to meet the unique needs of the student that requires specialized instruction and/or related services.	<p>1. The Team provides written notice and the parent's notice of procedural safeguards is provided</p> <p>Potential for eligibility of a 504 if the student only requires accommodations and meets eligibility requirements.</p> <p>2. If the parent is not satisfied with the evaluation outcome, they can seek an independent evaluation at their own expense or request one at the expense of the district.</p>

**Individualized Educational Program (IEP) Development**

An Individualized Education Program (IEP) is a written statement of the educational program designed to meet a child's unique individual needs. The IEP has two general purposes: to set reasonable learning goals for a student, and to state the services the student will receive as part of the educational program. The IEP is developed jointly by the school system, the parents of the child, and the student (when appropriate).

**Components:** The following components must be developed as part of the IEP:

1. Concerns, strengths, and vision for the student's future
2. General curriculum areas affected by the student's disabilities and the types of accommodations needed for the student to make effective progress
3. Present levels related to other educational needs and the types of accommodations needed for the student to make effective progress
4. Measurable annual goals
5. A service delivery grid outlining the type, personnel and duration of services
6. Non participation justification
7. Schedule modification if needed
8. Transportation services if needed
9. State and district wide assessments to be administered and the accommodations needed
10. Transition information
11. For a student 14 years old (or younger if appropriate) a Transition Planning Form
12. Placement determination

## **Implementation & Monitoring of the IEP**

The district must provide the parent with a copy of the proposed IEP immediately following the development (within 3-5 days). As soon as the parent responds to the proposed IEP, the district must implement all approved elements without delay. All portions rejected revert to “stay put”, which means to continue with the last consented service.

The district must ensure that each teacher, related services provider, and other service provider has access to the IEP and is fully informed of his/her specific responsibilities and of the accommodations/modifications and supports that must be provided according to the IEP.

Progress reports must address the goals at least as often as typical peers receive a progress report/report card.

The district must initiate and conduct meetings annually to review the IEP and make revisions as necessary.

A reevaluation is conducted every three years to determine eligibility, unless waived.

Placement decisions are based on the student’s needs as described in the IEP. Consideration must first be given to in-district settings. A student may be removed only if the nature or severity of the disability is such that education in regular classes --- with the use of supplementary aids and services – cannot be accomplished.

## **Transition Planning**

Beginning age 14 or sooner if determined appropriate by an individualized education program team, school age children with disabilities shall be entitled to transition services and measurable postsecondary goals, as provided under the federal Individual with Disabilities Education Act.

Transition services is defined as a "coordinated set of activities designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities.”

A student is eligible to receive special education services up until their 22<sup>nd</sup> birthday if they continue to demonstrate needs that require them.

The components of a transition plan and services need to address the following:

1. A post-secondary vision, which should correspond with the vision statement on the IEP.
2. Disability related needs. The disability related needs section documents skills that require IEP goals and/or related services.
3. It outlines how the student can develop self-determination skills.
4. How the student will be prepared both academically and functionally to transition to post-school activities in order to achieve his/her post-secondary vision.

## Discipline and Placement

If a student receiving special education services engages in challenging behaviors that require discipline and the student does not have a behavior support plan, a functional behavior assessment must be conducted.

Procedural protections are available for students not yet eligible for special education who have engaged in dangerous/serious behaviors. An expedited evaluation is proposed and the student is considered a special education student until a determination of eligibility is made.

**Short Term Removals:** Schools can remove a student for up to 10 days at a time for any violation of school rules as long as there is not a pattern of removals and so long as such discipline is consistent with discipline applied to students without disabilities.

**Longer Removals:** A student with a disability cannot be long-term suspended or expelled from school for a behavior that was a manifestation of his or her disability. Prior to a change in placement, a manifestation determination must be conducted. Services must continue for students with disabilities who are long term suspended or expelled from school, whether or not the conduct causing the discipline is related to their disability.

Regardless of the results of the manifestation determination, the district may unilaterally place a student in an interim alternative educational setting, as determined by the Team, for up to 45 calendar days, or longer upon order of a hearing officer.

Schools may request a hearing officer to remove a child for up to 45 days if keeping the child in his or her current placement is substantially likely to result in injury to the student or others.

A parent may appeal a removal decision, or a manifestation decision, to the BSEA (Bureau of Special Education Appeals).

## Chapter 688 Referral

Filing a Chapter 688 referral creates a documented need for services and supports for adults with severe disabilities. The primary goal of filing a Chapter 688 referral is to plan for needed adult services for students. In those cases where a student is determined to be eligible and services are not provided due to a lack of funding or program availability, agency personnel can advocate to increase funds in the budget planning process for the next fiscal year in order to provide the needed services.

### 688 Referral Process

In Massachusetts, students with severe disabilities access adult service agencies through the Chapter 688 referral process. Chapter 688 provides a two-year coordinated planning process for students whose entitlements to special education services will end when they graduate from school or turn 22 years of age.

**Eligibility** Students who receive services in accordance with an IEP and receive Supplementary Security Income (SSI) or Social Security Disability Insurance (SSDI) and/or are on the registry at the Massachusetts Commission for the Blind (MCB) are automatically eligible for Chapter 688. Other students who may be eligible are those students with severe disabilities who are in need of continued services and are unable to work 20 or more hours per week in competitive, non-sheltered, non-supported employment at the time they are ready to leave school. Also, students who receive services from the Department of Children and Family Services (DCF) and are on an IEP or a 504 Plan may be eligible.

### **Provisions pertaining to Informed Parental Involvement**

1. Parents may review all educational records pertaining to their child.
2. A parent may give permission to waive a recently conducted individual assessment, or assessments of the 3-year reevaluation.
3. Parents have the right to be members of any group that makes decisions on educational placement of their child.
4. Parents have a right to a copy of the IEP “immediately” (3-5 days) if they have not been provided a draft copy.
5. Parents have 30 calendar days to review and respond to the proposed IEP.
6. Parents must be invited annually to participate in a formal IEP Team review of the student’s progress.
7. Parents may request revisions to the IEP at any time if they feel services in the IEP are not being provided.
8. All rights are transferred to the student upon his/her eighteenth birthday unless a court has appointed a legal guardian.

### **Problem Resolution Procedures**

State and federal special education laws provide many opportunities for parents to be involved in educational planning for their child who has a disability. If parents and school districts disagree about changes relating to the identification, evaluation, or educational placement of a student with a disability, or the Free and Appropriate Public Education (FAPE) services provided to a student with a disability, the laws provide a menu of ways to resolve the disagreement.

The first step to resolving a dispute is to contact the school’s Principal or the Director of Special Education and Pupil Personnel. It is helpful if a letter is written outlining what the concerns are.

**State Complaint System:** Complaints can be filed with Program Quality Assurance (PQA) about any violation of state or federal education law or obtain help from PQA staff to resolve the problem informally. If there is a request for a formal investigation by PQA, it will need to be submitted in writing. The written complaint should include: a statement of concerns, attempts to resolve the concerns, the actions by the school that would most likely resolve the concerns and



contact information. The issues that a complaint is being filed about, however, must have occurred no more than one year before PQA receives the complaint.

A copy of the written complaint must be sent to the school district. PQA will resolve a complaint within 60 days and send a copy of the findings and decision.

**Mediation:** Mediation is a service provided by a neutral individual who is trained in special education law and in methods of negotiation. Mediation can be scheduled whenever the parents and schools have a disagreement about special education matters, even if a complaint was made through the PQA Problem Resolution System. The mediator helps the parent and school district talk about their disagreement and reach a settlement that both sides can accept. Discussions during mediations are confidential and nothing that is said by either party can be used later if the dispute becomes the subject of a formal hearing or court proceeding. Once an agreement is reached, it will be put in writing, both sides will sign it, and it may be enforced by a court.

**Bureau of Special Education Appeals (BSEA):** If the district and parent are unable to work out a disagreement, then parties are entitled to have a neutral and impartial hearing officer listen to both sides of the dispute, hear testimony, examine evidence, and make a decision. This hearing is convened by the BSEA and is called a due process hearing.

The BSEA hearing officer is trained in special education law and must not have any personal or professional connection to any party who is involved in the disagreement.

The due process hearing will consider disputes about eligibility; evaluation; IEPs; educational placement decisions, including those resulting from discipline; FAPE; provision of special education; or procedural protections of state and federal law for students with disabilities. Parties must file for a hearing within two years of the events that form the basis for the complaint.

## Summary

Shrewsbury Public Schools has a history of providing quality special education services at all educational levels. In addition, Shrewsbury offers many alternative programs within the district to meet the unique needs and challenges our students face.

It is important to understand the regulatory obligations the district faces as special education services are protected by both Federal and State laws that are mandated. This is also critical to understand from a fiscal perspective. Shrewsbury is diligent in meeting its' obligation for providing FAPE given the fact that the required state reimbursement (Circuit Breaker) has not been funded at the 75% rate in many years. Additionally, special education professional development grants had been nonexistent for several years. The Federal IDEA grant remains stable, but does not increase enough to meet the increase in services or needs and only supports approximately 13% of the total special education budget.

Shrewsbury will continue to strive to provide quality special education services that maximize opportunities for students to make effective progress while minimizing the impact of students' disabilities.

## **Appendix**

### **TABLE OF ABBREVIATIONS**

Many common special educational phrases are abbreviated by acronyms composed of the initial letters of the phrase. For your convenience the acronyms and phrases used in this document are listed below:

BSEA: Bureau of Special Education Appeals  
CFR: Code of Federal Regulations  
CMR: Code of Massachusetts Regulations  
ESE: Massachusetts Department of Elementary and Secondary Education  
FAPE: Free Appropriate Public Education  
FBA: Functional Behavioral Assessment  
IAES: Interim Alternative Educational Setting  
IDEA: Individuals with Disabilities Education Act  
IEE: Independent Educational Evaluation  
IEP: Individualized Education Program  
PQA: Program Quality Assurance Services  
24 <http://www.doe.mass.edu/sped/laws.html>

### **TABLE OF WEB SITES**

The ESE publishes extensive information for parents and school districts on its internet Websites. These Websites include pertinent laws, agency policies and useful documents that explain the special education process.

#### **Bureau of Special Education Appeals**

<http://www.doe.mass.edu/bsea/decisions.html>  
[http://www.doe.mass.edu/bsea/forms/hearing\\_rules.doc](http://www.doe.mass.edu/bsea/forms/hearing_rules.doc)  
<http://www.doe.mass.edu/bsea/forms/hearing.doc>  
<http://www.doe.mass.edu/bsea/mediation.html>  
[http://www.doe.mass.edu/bsea/forms/m\\_brochure.doc](http://www.doe.mass.edu/bsea/forms/m_brochure.doc)  
<http://www.doe.mass.edu/bsea/mediation.html?section=faq>  
<http://www.doe.mass.edu/bsea/process.html>

#### **Discipline:**

[http://www.doe.mass.edu/sped/IDEA2004/spr\\_meetings/disc\\_chart.doc](http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/disc_chart.doc)

#### **Individuals with Disabilities Education Act:**

<http://idea.ed.gov/>

#### **The Basic Special Education Process under IDEA:**

<http://www.doe.mass.edu/sped/iep/process.doc>

**Individualized Education Program:**

<http://www.doe.mass.edu/sped/iep>

**Individual Education Program Process Guide.**

<http://www.doe.mass.edu/sped/iep/proguide.pdf>

**Independent Educational Evaluation:**

<http://www.doe.mass.edu/sped/advisories/?section=admin>

**Observation of Education Programs by Parents and Their Designees for Evaluation Purposes:**

[http://www.doe.mass.edu/sped/advisories/09\\_2.html](http://www.doe.mass.edu/sped/advisories/09_2.html)

**Parent's Notice of Procedural Safeguards:**

<http://www.doe.mass.edu/sped/prb>.

**PQA Problem Resolutions System compared to BSEA Due Process Complaint:**

<http://www.doe.mass.edu/sped/complaintchart.doc>

**Program Quality Assurance Services Problem Resolution System:**

<http://www.doe.mass.edu/pqa/prs>

**Special Education Laws and Regulations:**

<http://www.doe.mass.edu/sped/laws.html>

**Special Education Surrogate Parent:**

<http://www.doe.mass.edu/sped/2002/news/1104memo.html>

**Special Education Transition Planning Form:**

<http://www.doe.mass.edu/sped/28MR/28m9.doc>

**Student Records Regulations:**

<http://www.doe.mass.edu/lawsregs/603cmr23.html>

**Student Records Questions and Answers**

<http://www.doe.mass.edu/lawsregs/advisory/cmr23qanda.html?section>.

**Transition Planning:**

<http://www.doe.mass.edu/sped/cspd/mod4.html#>